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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,115	05/30/2001	Yong S. Chen	CLX-701	6532

7590 10/07/2002
Ray K. Shahani, Esq.
Attorney at Law
Twin Oaks Office Plaza
477 Ninth Avenue, Suite 112
San Mateo, CA 94402-1854

EXAMINER

CHORBAJI, MONZER R

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 10/07/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/870,115

Applicant(s)

CHEN, YONG S.

Examiner

MONZER R CHORBAJI

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "volatile material" in claims 1-4, 10, 13, and 17, the "solid pattern over an entire lower surface portion of the container" in claim 8, and the "closure means" in claims 13-16 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification does not mention the following limitation "a solid pattern over an entire lower surface portion of the container".

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
5. Claims 5 and 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 11, line 1; applicant uses the term "a predetermined number".

Does the applicant mean one or two or more leg structures? It would be clearer if the applicant substitute the term with, for example, a numerical range. The same applies to claim 12, line 2 for "a predetermined height".

In claim 5, lines 1-2; applicant uses the term "a single heat-resistant material". The meaning of such a term is not understood since metal conducts heat. Also, in claim 1; applicant mentions that the container is made entirely of metal. Then how can metal be heat-resistant? The same applies to thermoplastic and ceramic. Both do conduct heat. Clarification is needed to understand the meaning of claim 5.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Beatty (U.S.P.N. 533,428).

With respect to claim 10, Beatty discloses a pan (B) such that the lower surface of the pan has a plurality of integrally formed leg structures (b) extending from the lower surface of the pan. The pan is filled with water (volatile material) to be vaporized (col.2, lines 64-66) into the atmosphere by the heat supplied from a furnace (col.2, lines 48-50). In addition, the metallic register box is connected to

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a furnace (A and a). Thus, the hot air will inherently heats the register box (heating device) upon which the support structure (A and b) is in direct contact.

With respect to claims 11-12, Beatty's pan includes four integral legs (b) having a predetermined height in order to maintain it a suitable distance above the opening (a).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1, 5-7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beatty (U.S.P.N. 533,428).

With respect to claim 1, Beatty discloses a pan (B) such that the lower surface of the pan has integral leg support structure (b). The pan is filled with water (volatile material) to be vaporized (col.2, lines 64-66) into the atmosphere by the heat supplied from a furnace (col.2, lines 48-50). Furthermore, Beatty

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teaches that the register box into which pan (B) sits is made of metal (col.1, lines 22-23). In addition, the metallic register box is connected to a furnace (A and a). Thus, the hot air will intrinsically heats the register box (heating device) upon which the support structure (A and b) is in direct contact. As a result, in order for the hot air to heat the pan, the pan must intrinsically be made of a material that conducts heat (i.e., metal).

With respect to claim 5, Beatty's pan must conduct heat in order to heat the water. Choosing material that conduct heat as taught by Beatty is well within the scope of the artisan especially when Beatty teaches that the register box is made up of metal.

With respect to claims 6-7, Beatty discloses a plurality of integral leg support structures (b). The shape of the legs is rectangular. Also, Beatty teaches that in order to maintain the pan a suitable distance over the opening (a) supports for the pan can be used (col.1, lines 29-32). The word "supports" includes any shape or arrangement as long as it is capable of supporting the pan a suitable distance over the opening. Thus, whether the supports are in the pattern of legs or a zig-zag, such various designs are obvious and well within the scope of the artisan.

With respect to claim 9, Beatty's pan includes handles means (unlabeled extensions on the top of both sides of B).

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beatty (U.S.P.N. 533,428) in view of Scheuing (U.S.P.N. 860,335).

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The teachings of Beatty have previously been set forth with regard to claims 1, 5-7, and 9-12. However, with respect to claim 8, Beatty fails to disclose such a limitation. Scheuing's support structure (8) includes a solid pattern that partially covers the lower surface portion of the pan (5). It would have been obvious to one having ordinary skill in the art to modify Beatty's pan to include supports that cover the entire lower surface to prevent lateral movement of the pan (Beatty, col.1, lines 34-35).

12. Claims 2-4 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beatty (U.S.P.N. 533,428) in view of Flashinski et al (U.S.P.N. 6,031,967).

The teachings of Beatty have previously been set forth with regard to claims 1, 5-7, and 9-12. However, with respect to claims 2-4 and 13-17, Beatty fails to disclose the following limitations: the use of pesticides and insecticides, insect repellents, fragrances, air-fresheners, deodorizers, porous solid substrate impregnated with the volatile material, volatile material is in a gel form, closure means, impermeable closure means, semi permeable closure means, and permeable closure means. Flashinski, which is in the art of heating volatile materials discloses the following: volatile material is insecticides (col.1, line 66), reservoir contains a porous solid substrate impregnated with volatile material (col.2, lines 1-2), the volatile material is in a gel form (col.3, lines 51-53), and the closure means including an impermeable film for retaining the volatile material (col.3, lines 4-5). Furthermore, Flashinski's closure means includes a porous (i.e., permeable) or semi-porous (i.e., semi permeable) membrane (28). It would

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have been obvious to one having ordinary skill in the art to modify Beatty's system to include insecticides in order to control mosquitoes (Flashinski, col.4, lines 30-31).

Conclusion

13. The prior art made of record but not relied upon is considered pertinent to applicant's disclosure. Page (U.S.P.N. 153,107), Karst (U.S.P.N. 689,842), and Rahn (U.S.P.N. 1,057,273) teach similar systems. Flashinski et al (U.S.P.N. 6,154,607) discloses the use of insecticides.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R CHORBAJI whose telephone number is (703) 305-3605. The examiner can normally be reached on M-F 8:30-5:00.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT J WARDEN can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3599 for regular communications and (703) 305-7719 for After Final communications.

16. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

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Monzer R. Chorbaji *MRC*

Patent Examiner

AU 1744

October 2, 2002

Robert J. Warden, Sr.

ROBERT J. WARDEN, SR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700